

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

**RACHEL NICOLE HYATT,**  
*Plaintiff*

v.

**COMMISSIONER OF THE SOCIAL  
SECURITY ADMINISTRATION,<sup>1</sup>**  
*Defendant*

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**CASE NO. 1:21-CV-381-RP-SH**

**ORDER**

Before the Court is Plaintiff's Motion to Proceed *In Forma Pauperis* (Dkt. 2), filed April 30, 2021. The District Court referred this case to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b), Federal Rule of Civil Procedure 72, and Rule 1 of Appendix C of the Local Rules of the United States District Court for the Western District of Texas and the Standing Order Regarding Court Docket Management of Cases Seeking Judicial Review of Social Security Decisions for the Austin Division.

Plaintiff seeks leave to file his Complaint without having to pay the filing fee. After reviewing her Application and financial affidavit in support, the Court finds that Plaintiff is indigent. Accordingly, the Court **HEREBY GRANTS** Plaintiff *in forma pauperis* status and **ORDERS** that her Complaint be filed without pre-payment of fees or costs or giving security therefor, pursuant to 28 U.S.C. § 1915(a)(1). This indigent status is granted subject to a later determination that the action should be dismissed if the allegation of poverty is untrue or the action is found frivolous or malicious pursuant to 28 U.S.C. § 1915(e)(2). Plaintiff is advised that although she has been granted leave to proceed *in forma pauperis*, the Court may, in its discretion, impose costs of court

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<sup>1</sup> Plaintiff named Andrew Marshall Shaw as the defendant in this case. However, the Commissioner of the Social Security Administration is the proper defendant in an appeal of a final decision of the Commissioner. Accordingly, Plaintiff is directed to name Andrew Saul, the current Commissioner of the Social Security Administration, as the defendant in this case in all future filings with the Court.

at the conclusion of this lawsuit, as in other cases. *Moore v. McDonald*, 30 F.3d 616, 621 (5th Cir. 1994).

Because Plaintiff has been granted leave to proceed *in forma pauperis*, the Court is required by standing order to review the Complaint under § 1915(e)(2). A district court may summarily dismiss a complaint filed *in forma pauperis* if it concludes that the action is (1) frivolous or malicious; (2) fails to state a claim on which relief may be granted; or (3) seeks monetary relief against a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2)(B).

After reviewing Plaintiff's Complaint, the Court has determined that this case should not be dismissed as frivolous at this time. Based on the foregoing, the undersigned **GRANTS** Plaintiff's Motion to Proceed *In Forma Pauperis* (Dkt. 2). The Court **FURTHER ORDERS** the **CLERK** to issue summons in this case and **ORDERS** the United States Marshals Service to attempt service in this case without pre-payment of a service fee.

**SIGNED** on May 3, 2021.



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SUSAN HIGHTOWER  
UNITED STATES MAGISTRATE JUDGE